

APPEAL NO. 020896
FILED MAY 14, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 27, 2002. With regard to the only issue before her, the hearing officer determined that the appellant (claimant) did not have disability from June 12, 2001 (all dates are 2001 unless otherwise noted), through September 2.

The claimant appealed, reciting some of her testimony (and more) from the CCH and emphasizing doctors' reports taking her off work. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable cervical and thoracic spine and left shoulder injury on _____. The claimant continued working her regular duties. The claimant first sought medical attention for her compensable injury on June 5 from Dr. B, a chiropractor. Dr. B, on a Work Status Report (TWCC-73) dated June 5, released the claimant to return to work without restrictions on June 6. The claimant returned to her regular duties and worked until June 11.

On June 11, the claimant inquired about using the Family Medical Leave Act to take care of one of her daughters who was expected to give birth on or about June 12 (she actually gave birth on June 13). The evidence was conflicting whether the claimant took off work because her daughter was due to give birth to a child and the claimant wanted to help care for the child or because of her compensable injury.

Disability is defined in Section 401.011(16) as the inability because of a compensable injury to obtain and retain employment at the preinjury wage. Two doctors, including Dr. B, completed TWCC-73 forms and prepared reports retroactively taking the claimant off work on _____. The carrier's doctor examined the claimant on August 28 and was of the opinion that the claimant could go back to work on that date and stated that based on the testing, had he seen the claimant on June 15, he would have released her to return to work then. Dr. B released the claimant to return back to full duty without restrictions on September 3; the claimant, in fact, returned to work on September 4.

There was conflicting evidence presented at the hearing on the disputed issue. The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determination on the issue is not against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC GENERAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge